

APPEAL NO. 030060
FILED FEBRUARY 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 10, 2002. The hearing officer resolved the disputed issues by deciding that the compensable injury is not a producing cause of the appellant's (claimant) current cervical, lumbar, and right arm injuries, and that the claimant is not barred from pursuing workers' compensation benefits because of an election to receive benefits under a group health policy. Both the claimant and the subclaimant appealed the producing cause determination. The respondent (carrier) responded, urging affirmance. The election-of-remedies determination was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on February 17, 1998. The claimant testified she was injured in a motor vehicle accident on that date, and that her symptoms never completely resolved. It was undisputed that the claimant did not seek medical treatment until well over three years after being released to return to work in March 1998. The hearing officer noted in his statement of the evidence that "the claimant was an overall weak witness, and many of her statements simply do not stand to reason."

Conflicting evidence was presented on the disputed issue of producing cause. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). Applying this standard, we find no grounds to reverse the decision of the hearing officer. There is sufficient evidence in the record to support the appealed findings in this case.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Terri Kay Oliver
Appeals Judge